

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

MARY SMITH, as Administrator)	
of the ESTATE OF MARCUS)	
DEON SMITH, deceased,)	
)	
Plaintiff,)	
)	
v.)	1:19CV386
)	
CITY OF GREENSBORO, et al.,)	
)	
Defendants.)	

ORDER

The Order and Recommendation of the United States Magistrate Judge was filed with the Court in accordance with 28 U.S.C. § 636(b) and, October 18, 2021, was served on the parties in this action. (ECF Nos. 201, 202).

Plaintiff objected to the Recommendation, (ECF No. 212), and Defendants filed responses thereto, (ECF Nos. 216, 217).

The Court has appropriately reviewed the portions of the Magistrate Judge's report to which objection was made and has made a de novo determination that is in accord with the Magistrate Judge's report. The Court therefore adopts the Magistrate Judge's recommendation.¹

¹ The Court notes that several Defendants raised an argument that "Plaintiff's Objections should be reviewed under the clearly erroneous standard, because a motion to amend is not a dispositive motion." (ECF No. 216 at 6.) To the extent that the Magistrate Judge's Recommendation addressed Plaintiff's motion to amend the complaint, the Magistrate Judge had the authority to enter the Recommendation as an order. *See Everett v. Prison Health Servs.*, 412 F. App'x 604, 606 (4th Cir. 2011); *see also Deberry v. Davis*, No. 1:08CV582, 2010 WL 1610430, at *7 n.8 (M.D.N.C. Apr. 19, 2010). If the Magistrate had done so, the undersigned would not set aside the Magistrate Judge's determination unless it is "clearly erroneous or contrary to law." *See Everett*, 412 F. App'x at 605 n.2 (quoting Fed. R. Civ. P. 72(a)). Here, the Court finds no clear error in the Magistrate Judge's report.

IT IS THEREFORE ORDERED that Plaintiff's Motion for Leave to Amend Her Complaint or Alternatively for Reconsideration, (ECF No. 155), is DENIED.

This, the 6th day of December 2021.

/s/ Loretta C. Biggs
United States District Judge